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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013 - 843*

13 **ALLIE JEAN SCHOENAUER**  
490 Whidbey Street  
Morro Bay, CA 93442

**A C C U S A T I O N**

14 Registered Nurse License No. 632112

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs (Board).

22 2. On or about February 6, 2004, the Board of Registered Nursing issued Registered  
23 Nurse License No. 632112 to Allie Jean Schoenauer (Respondent). The Registered Nurse  
24 License was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on March 31, 2015.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board, under the authority of the following  
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

**STATUTORY PROVISIONS**

4. Section 118, subdivision (b), states that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

6. Section 2750 states, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

7. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

....

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof. . . ."

8. Section 2762 states, in pertinent part::

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

....

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."

9. Section 2764 states:

The lapsing or suspension of a license by operation of law or by order or decision of the Board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the Board jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license."

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1           10. Section 2765 of the Code states:

2           "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a  
3 charge substantially related to the qualifications, functions and duties of a registered nurse is  
4 deemed to be a conviction within the meaning of this article. The board may order the license or  
5 certificate suspended or revoked, or may decline to issue a license or certificate, when the time  
6 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an  
7 order granting probation is made suspending the imposition of sentence, irrespective of a  
8 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person  
9 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict  
10 of guilty, or dismissing the accusation, information or indictment."

11                                   **REGULATORY PROVISIONS**

12           11. California Code of Regulations, title 16, section 1444, states, in pertinent part:

13           "A conviction or act shall be considered to be substantially related to the qualifications,  
14 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
15 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
16 safety, or welfare. . . ."

17                                   **COST RECOVERY**

18           12. Section 125.3 states, in pertinent part, that the Board may request the administrative  
19 law judge to direct a licensee found to have committed a violation or violations of the licensing  
20 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
21 case.

22                                   **FIRST CAUSE FOR DISCIPLINE**

23                                   **(Conviction of a Substantially-Related Crime)**

24           13. Respondent is subject to disciplinary action under sections 490 and 2761, subdivision  
25 (f), in conjunction with California Code of Regulations, title 16, section 1444, in that on or about  
26 July 06, 2011, Respondent was convicted of a crime substantially related to the qualifications,  
27 functions or duties of a registered nurse which to a substantial degree evidences her present or  
28 potential unfitness to practice in a manner consistent with the public health, safety, or welfare, as

1 follows:

2 a. On or about July 06, 2011, after pleading *nolo contendere*, Respondent was convicted  
3 of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving  
4 while having 0.08%, or more, by weight, of alcohol in his or her blood], in the criminal  
5 proceeding entitled *The People of the State of California v. Allie Jean Schoenauer* (Super. Ct. San  
6 Luis Obispo County, 2011, No. M000461328). The court sentenced Respondent to serve 10 days  
7 in jail, placed her on probation for a period of 3 years, and fined her. The circumstances  
8 surrounding the conviction are that on or about June 06, 2011, a Morro Bay Police Department  
9 Officer, while on duty, performed a routine traffic stop, and stopped Respondent for failing to  
10 make a complete stop at a stop sign. The officer contacted Respondent and observed her to have  
11 slurred speech, smelled an odor of an alcoholic beverage emitting from her breath, and observed  
12 her using the car door for balance when she stepped out of the vehicle. Respondent admitted to  
13 the officer that she had, "two Vodka Tonics." The Respondent stated to the officer, when asked if  
14 she could feel the effect of the alcohol, "Probably, yeah." Respondent attempted to perform a  
15 series of field sobriety tests, which she failed to complete satisfactorily. Respondent was  
16 subsequently given a blood test with a result of .23% BAC.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Alcohol Related Conviction)**

19 14. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and  
20 2762, subdivision (c), on the grounds of unprofessional conduct, in that on or about July 06,  
21 2011, Respondent was convicted of a crime involving an alcoholic beverage. Complainant refers  
22 to, and by this reference incorporates, the allegations set forth above in paragraph 13,  
23 subparagraph (a), inclusive, as though set forth fully.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Dangerous Use of Alcohol)**

26 15. Respondent is subject to disciplinary action under section 2761, subdivision (a), and  
27 2762, subdivision (b), on the grounds of unprofessional conduct, in that Respondent consumed  
28 alcoholic beverages to an extent or in a manner that was dangerous or injurious to herself, another

1 person, or the public. Complainant refers to, and by this reference incorporates, the allegations  
2 set forth above in paragraph 13, subparagraph (a), inclusive, as though set forth fully.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct / Violation of Nursing Practice Act)**

5 16. Respondent is subject to disciplinary action under sections 2761, subdivisions (a) and  
6 / or (d), in that Respondent was convicted of a crime and committed an act of unprofessional  
7 conduct, violating the Nursing Practice Act. Complainant refers to, and by this reference  
8 incorporates, the allegations set forth above in paragraphs 13 through 15, inclusive, as though set  
9 forth fully.

10 **PRAYER**

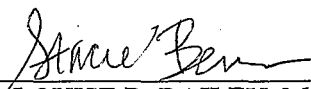
11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
12 and that following the hearing, the Board issue a decision:

13 1. Revoking or suspending Registered Nurse License No. 632112, issued to Allie Jean  
14 Schoenauer;

15 2. Ordering Allie Jean Schoenauer to pay the Board the reasonable costs of the  
16 investigation and enforcement of this case, pursuant to Business and Professions Code section  
17 125.3; and

18 3. Taking such other and further action as deemed necessary and proper.

19  
20 DATED: MARCH 28, 2013

21   
22 LOUISE R. BAILEY, M.ED., RN  
23 Executive Officer  
24 Board of Registered Nursing  
25 Department of Consumer Affairs  
26 State of California  
27 Complainant  
28

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